IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2660 OF 2005

Mr. Subhash Hastimal Gulecha ...Petitioner
Vs.
The State of Maharashtra & Ors ...Respondents

Ms. Karnik Adv. for Petitioner
Ms. S. Bhende, A.G.P. for Respondents

CORAM: F.I.REBELLO & ROSHAN DALVI, JJ.
DATED: 18TH NOVEMBER, 2005

P.C.

1. Rule. Heard forthwith.

2. Certain facts are not in dispute. Petitioner is admittedly residing in residential accommodation made available to him by Respondent No.6 institution. The Petitioner is also receiving HRA. Apart from HRA Petitioner was receiving TA in terms of reply affidavit filed by one Ashok Jagannath Sonawane, Deputy Education Officer (Secondary) Zilla Parishad, Nasik, Dist: Nasik. The Government resolution dated 9th May 2003 provides that only those employees who are residing in private accommodation within a distance of 1 Km. from the place of working are entitled to transport allowance. It is further set out that the said G.R. only applies to the Government employees and not private institutions.

3. The contention of the Petitioner is that the orders making recovery from him was passed without hearing and without giving him any opportunity of being heard.

4. Considering the contentions the ends of justice will be met if the impugned order dated 20th December 2004 is set aside and the matter is remanded. In the light of that the communication dated 20th December 2004 by the Respondent No.4 and the order dated 4th December 2004 of Respondent No.2 is set aside.

5. Respondent No.2 to give hearing to the Petitioner on the contention as advanced by him and thereafter to pass orders according to law.

6. The Petitioner will appear before the Respondent No.2 on 6th December 2005 at 11.00 a.m. for further directions.

7. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO J.)

(ROSHAN DALVI, J.)